

01274

1990/07/00

GAO

United States General Accounting Office
Briefing Report to the Ranking
Minority Member, Committee on
Foreign Relations, U. S. Senate

July 1990

FOREIGN AFFAIRS

Forced Labor in the People's Republic of China

RESTRICTED—Not to be released outside the
General Accounting Office unless specifically
approved by the Office of Congressional
Relations.

549024

National Security and
International Affairs Division

B-240183

July 23, 1990

The Honorable Jesse Helms
Ranking Minority Member
Committee on Foreign Relations
United States Senate

Dear Senator Helms:

In response to your request dated February 7, 1990, we looked into the allegations of widespread forced labor in the People's Republic of China (PRC). Specifically, we addressed (1) the extent of forced labor in the PRC, including the number of facilities and the number of those detained, and (2) the organization of the forced labor system. In addition we determined whether detainees have been used for productive labor, whether the products are exported, and whether and to what extent these products have reached the United States.

We did not visit the PRC or obtain firsthand evidence of forced labor programs there. We obtained available information from U.S. government agencies and relied extensively on private, unverified sources.

Results in Brief

Our inquiries indicated the following:

- Forced labor is an integral part of the political, judicial, penal, and economic systems in the PRC and is practiced throughout the country. To the extent possible, the PRC uses detainees for productive labor in areas such as farming, manufacturing, and mining.
- The State Department currently estimates the number of prisons and labor reform or reeducation facilities and detention centers at about 3,000. However, one researcher, a former detainee, estimates the number at about 5,000. Although the labels attached to the various facilities vary, both U.S. government and private sources agree that imprisonment in the PRC usually involves forced labor.
- Estimates of the number of detainees vary depending on the source of the information, the nature of the detention included in the estimate, and the assumptions of those making the estimates. The State Department estimates the number to be over two million, while former detainees and researchers estimate the number to be many more.
- Since 1890, the United States has restricted the import of the products of forced labor from any country. U.S. Customs Service officials said

that in no instance had they banned forced-labor goods from the PRC. However, Customs is currently investigating allegations that certain products of forced labor have been imported into the United States from the PRC. Both government and private sources have circumstantial evidence that the products of forced labor have been exported by the PRC and that such products might have reached the United States.

Scope and Methodology

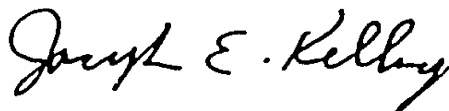
To obtain information for this report, we met with or contacted officials of the Departments of State, Agriculture, Commerce, and Labor; the U.S. Customs Service; the U.S. International Trade Commission; the International Labor Organization; and the United Nations. We also contacted human rights organizations such as Amnesty International and Asia Watch. We contacted individuals from interested private and religious organizations, academia, and private researchers, including two former prisoners. Details on the results of our review are provided in appendix I.

As agreed with your office, we did not obtain written agency comments on this report. We discussed the results of our work with State Department officials and considered their comments in preparing this report.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after its issue date. At that time we will send copies to the Secretaries of Commerce, Labor, State, and Treasury and to other interested parties. Copies of the report will be made available to others upon request.

Major contributors to this report are listed in appendix II. If you have any questions about the report, please call me on (202) 275-4128.

Sincerely yours,



Joseph E. Kelley
Director, Security and International
Relations Issues

Contents

Letter		1
<hr/>		
Appendix I		6
Forced Labor in the	Forced Labor Definition Affects Number Involved	6
People's Republic of	Organization of the System	8
China	U.S. Law on Import of Goods Made by Forced Labor	10
	Forced Labor Production and Export of Goods in the PRC	11
<hr/>		
Appendix II		15
Major Contributors to		
This Report		

Abbreviations

GAO	General Accounting Office
PRC	People's Republic of China

Forced Labor in the People's Republic of China

The system of forced labor has existed in the People's Republic of China (PRC) for nearly 40 years. "Lao-Gai," or the Labor Reform System, was established in the early 1950s when the Chinese Communist Party started its large-scale repression of counterrevolutionaries. In 1951, the Minister of Public Security claimed that forced labor was one of the fundamental methods for reforming the counterrevolutionary classes. The Minister further said that political reform and rehabilitation through such labor served to punish as well as educate political undesirables so that they could better serve the People's government.

Forced Labor Definition Affects Number Involved

The use of labor to reform and reeducate criminals and other individuals is a long-standing practice in the PRC. Generally, three categories of detention were discussed by the sources we contacted: (1) reform through labor, (2) detention beyond the expiration of one's sentence, and (3) reeducation or rehabilitation through labor. A definitive number of individuals included in each of these categories is not available. Estimates of the number of detainees vary depending on the source of the information, the nature of the detention included in the estimate, and the assumptions of those making the estimates. A current researcher, who is also a former detainee, estimates the total number of individuals in the three detention categories to be about 20 million: 5 million in reform through labor, 10 million in detention beyond sentence, and 5 million in reeducation through labor. The State Department's current estimates for the first and third detention categories total over two million; however, State does not include the second detention category in its estimates. In its 1988 human rights report, State estimated a total prison/labor camp population of between two million and five million.

The first overall detention category—reform through labor—was formally recognized in the 1954 PRC constitution and related laws. Specifically, reform through labor (Lao-Gai) falls within the Chinese Criminal Law and Criminal Procedure Law and, as such, is a form of criminal punishment. It refers to individuals who are tried and sentenced by a court to a specific term of imprisonment.

The State Department, working from official PRC sources, currently estimates that about 1.5 million individuals are involved in reform through labor, with 500,000 in prisons and one million in reform camps. In addition, State estimates that 500,000 prisoners are in detention centers. We do not have details on the specific methodology followed by researchers in deriving their estimates. However, one researcher estimated that

about 5 million individuals are subject to reform through labor. His estimates do not provide a breakout by type of detention facility.

We were informed of a second category of forced labor included in the higher estimate. Under this category, adopted as policy in 1954, many prisoners are detained for employment in the camps even after their sentences expire (Duoliu Shaofang). Some individuals who have been released from labor reform camps are forbidden to return to their home communities. In the Country Reports on Human Rights Practices for 1989, the State Department said that this "amounts to a form of internal exile"; thus, State does not include these people in its forced labor estimate. While the PRC government may pay wages to these laborers, it still maintains strict control over their daily activities. We were told that most of them still live within labor camp boundaries.

Including this second category in estimates accounts for much of the difference in researchers' estimates of forced labor when compared with the State Department's estimate. One researcher and former prisoner includes 10 million individuals in this category. We were told by a State Department official that the PRC does not consider such "internal exile" to be a penal practice. Rather, it can be considered a form of internal migration control. The government routinely assigns workers to jobs located away from their home communities. Moreover, the State Department reports that most Chinese citizens have restricted mobility and cannot freely change their residence within the PRC.

According to a former labor camp prisoner, the PRC may be lessening its restrictions on forced job placement. We were told that until 1980, about 90 percent of those released from labor camps were detained for job placement within the labor reform system. Since that time, however, almost half of those released have been permitted to leave.

The third category of forced labor is reeducation or rehabilitation through labor (Lao-Jiao). Regulations to implement this practice were adopted in 1957 under the Decision on Reeducation Through Labor. Under this noncriminal, administrative sanction, police and civil administrative organs can sentence, without a trial, a variety of offenders to labor in reeducation camps. According to a study by the Library of Congress, this sanction generally applies to persons who, in a minor way, are politically suspect, socially disruptive, or unproductive. PRC regulations establish a specific detention period of 1 to 3 years imprisonment with a possible 1-year extension. They also try to distinguish between the terms reform through labor and reeducation through labor. The first

is a criminal sanction while the latter, in theory, is a noncriminal, administrative sanction. However, the study concluded that the distinctions between the types of offenses covered by the administrative sanction and those covered by the criminal code are not clear.

The State Department estimates that about 150,000 individuals might be included in reeducation or rehabilitation through labor. One researcher, who is also a former detainee, estimated that 5 million individuals are involved in this category; however, as with reform through labor, we are not fully aware of all the assumptions made in arriving at this estimate.

The political climate and ideological movements within the PRC have an impact on the numbers of people detained. For example, although precise figures are not available, the 1989 government crackdown on student demonstrators in Tiananmen Square resulted in increases in the prison population. According to a State Department official, the political campaigns of the 1960s and 1970s resulted in millions of political prisoners. However, many were released during the 1970s and 1980s. No precise figures exist on the number of detainees involved in the PRC's forced labor system, and many factors can skew the estimates.

Organization of the System

The PRC is an authoritarian one-party state ruled by the Chinese Communist Party. The State Department reported that following the Beijing massacre in early June 1989, the PRC reinforced totalitarian measures to control political views. The government maintains control through a nationwide security network that includes the Ministry of State Security; the Ministry of Public Security; the Ministry of National Defense; state judicial, procuratorial, and penal systems; and traditional societal pressure.

Through its regulations, the Chinese Communist government established the organs to implement the reform through labor system. Until 1983, the Ministry of Public Security supervised the labor reform organs operating at various governmental levels. In 1983 the Chinese Communist Party's Central Committee decided that labor reform organs should come under the control of the judicial administrative organs. The Committee then transferred these responsibilities to the Ministry of Justice, which assumed control of the labor reform facilities. The Labor Reform Bureau, operating under the Ministry of Justice, now oversees the reform facilities that exist at the national, provincial, and city levels under the jurisdiction of their people's public security offices. Various

responsibilities are distributed among the branches of the PRC government.¹ According to one researcher, however, the Chinese Communist Party maintains influence over the entire system of reform through labor.

The State Department and an academic researcher estimate the number of prisons and labor reform or reeducation facilities and detention centers at about 3,000. However, a former detainee estimates that this labor reform system contains about 5,000 labor reform facilities located throughout the PRC. This figure includes facilities run at all governmental levels. According to some sources, all 29 provinces and about 2,000 counties within China operate some kind of detention facility, including their own labor education camps. Depending on their size, Chinese cities may also have detention facilities—larger cities may have more than one.

Reform facilities include four basic types: detention centers,² prisons, labor camps,³ and juvenile detention centers. The courts and/or police assign prisoners to facilities that best fit their crimes. Detention centers house prisoners who are awaiting sentencing or trial and criminals sentenced to imprisonment for 2 years or less. Prisons contain individuals who have been formally tried and sentenced for their crimes. Labor reeducation camps contain counterrevolutionary and some criminal prisoners assigned to work in agriculture, construction, or industry. More importantly, these prisoners study the “error of their ways” through political reeducation. Juvenile facilities house individuals between the ages of 13 and 18 years who have committed criminal offenses. These individuals receive political schooling and perform light labor. According to the 1954 law on reform through labor, at all reform facilities, the policy of uniting productive labor with political education was expected to transform prisoners into new persons.

¹Organizational information on the reform through labor system often proves outdated and difficult to interpret. However, some sources identify the governmental hierarchy. Beginning at the top, labor reform organs operate at the following levels: Central Government, Large Administrative Region, Province, Prefecture, and County.

²Some sources distinguish between detention and pre-trial detention centers. For practical purposes, the two facilities perform the same function.

³Some sources designate two types of labor camp facilities: labor production camps and reeducation through labor camps.

Although the labels attached to the various facilities vary, both U.S. government and private sources agree that imprisonment in the PRC usually involves forced labor. While their names indicate separate facilities, prisons or reform through labor camps are collocated with production facilities. For instance, a former labor camp prisoner explained how the officially named Beijing No. 1 Labor Reform Detention Center is publicly called Qinghe Farm.⁴ The official PRC government name identifies the facility's location, while the secondary title indicates the goods or services produced there. Although detention centers house prisoners for only a short time, and juvenile detention centers are designated for those under 18 years of age, both facilities have the reform through labor and reeducation philosophy. While incarcerated, political and criminal prisoners work together in forced labor enterprises.

U.S. Law on Import of Goods Made by Forced Labor

The United States has banned the importation of goods made by convict labor since the McKinley Tariff Act of 1890. The ban was broadened in the Smoot-Hawley Tariff Act of 1930 (sec. 307) to include goods that were mined or produced as well as manufactured, and prohibited types of labor were expanded to include forced or indentured labor. However, the prohibition does not include merchandise that may have a compulsory-labor content but is not produced in sufficient quantities domestically to meet demand. Thus, this legislation is intended primarily to protect American workers' rights, rather than human rights in other countries.

Under 19 U.S.C. 1307, the Secretary of the Treasury develops the regulations to enforce this provision of the law. The Secretary of the Treasury has delegated to the U.S. Customs Service the responsibility of administering the prohibition on the importation of goods made by convict or forced labor. To enforce a ban on imports, Customs must gather evidence and determine whether the goods were produced by forced labor. However, such a determination cannot be established factually by simple examination of the goods.

Actions to enforce this provision of the law may be initiated by any Customs district director or other principal Customs officer or any person outside the U.S. Customs Service who has reason to believe that such merchandise is being, or is likely to be, imported. A person outside Customs must submit specific information about the type of products

⁴Another example of dual labels is the Hunan Heavy Truck Plant, officially known as the No. 2 Hunan Province Prison.

involved, the conditions of production, and the basis for believing they are produced by forced labor. The Commissioner of Customs "will cause such investigation to be made as appears to be warranted by the circumstances of the case...."

If the information available reasonably, but not conclusively, indicates that the merchandise falls within the purview of section 307, the Commissioner will advise all district directors to withhold release of the merchandise. The importer must then produce a certificate of origin, signed by the foreign seller or owner, containing sufficient information to show that prohibited labor was not used. The publication of a final ruling that certain merchandise is subject to the provisions of section 307 and consequently prohibited from importation must be approved by the Secretary of the Treasury.

The application of section 307 has been sought in about 90 cases since the section was enacted in 1930. In only two instances were the goods of forced labor banned from importation to the United States.

There have been no cases relating to forced-labor goods produced in the PRC. However, Customs officials are currently investigating allegations that the PRC has exported certain products of forced labor to the United States.

Forced Labor Production and Export of Goods in the PRC

In response to a request by the Senate Committee on Finance in 1984, the U.S. International Trade Commission reviewed the nature and extent of U.S. imports produced wholly or partially by convict, forced, or indentured labor. The Commission's report cited a 1981 visit to the PRC by a delegation of 35 American criminal justice officials. The visitors found that one of the most notable aspects of adult detention facilities was the emphasis on industrial production. They further reported that prison industries are fully integrated into the national economy. Decisions on what products to produce are made by one of the departments of the central government in cooperation with the provincial governments.

The Commission stated that while there was no direct evidence indicating the quantity of exports produced by forced labor in industry or mining, some of the articles were of a type that could be exported. According to the Commission's report, the leading U.S. imports from

China that might have been made by forced labor included tin, hand-made rugs, fireworks, baskets and bags, and possibly a few items of apparel. The Commission concluded that

"although there are no available data on actual prison good imports from China,...given the nature of the products made in the prison system and the large number of prisoners, a portion of the goods produced might enter the United States."

According to a Commerce Department report, in 1989 the United States imported goods worth \$12 billion from the PRC, including products that flowed through Hong Kong. This was a 41-percent increase over 1988 with the growth accelerating during the year. These imports covered a wide variety of products, but toys, games, and sporting goods led the list. During the first 11 months of 1989, the United States imported about \$3 billion in goods in the categories the U.S. International Trade Commission had cited earlier as imports that could have been made by forced labor.

One individual we interviewed, a former prisoner and a researcher into this matter, has reviewed the Commerce Department's list of 99 categories of goods imported from the PRC from 1985 through 1989. His ongoing research indicates that forced labor camps and prisons produce goods in 64 of these categories. He cited several examples of exports produced by forced labor, including black tea and industrial equipment.

A 1988 Foreign Broadcast Information Service translation of a Chinese press account on the PRC's reform through labor system stated that production had achieved great economic success. According to the translation, in 1987

"units conducting reform and reeducation through labor set an unprecedented record of gross value of industrial and agricultural output, while the amounts of their tax payments, profits, and the products they made for export all achieved a record high." (Underscoring added.)

Another 1988 Chinese press account reported by the Service stated that the "China Youth News" had reported on a national sales fair for goods produced by prison inmates. The 2,000 products on display were produced by 200 prison factories and farms, according to a statement by an organizing official. Included in the display were machinery, motor vehicles, chemicals, handicrafts, articles for daily use, and agricultural and animal husbandry products. The report further stated that prison

inmates throughout China had produced 5,000 products and yielded an annual average of 5.6 billion yuan (\$1.5 billion) in output value. We estimate that this output was about four-tenths of one percent of the PRC's 1988 gross national product of 1,365 billion yuan (\$368 billion).

Some PRC government sources indicated the production of high quality forced-labor goods that were available for export. According to Library of Congress interpretations of a textbook on China's Labor Reform Law, these products have received the state gold, silver, or superior quality medal, and some have been placed on the international market for export, where they have earned a reputation for high quality.

In most instances, goods produced in the PRC pass through several business channels before they are exported. According to a Commerce Department official, about 60 percent of the PRC's products reaching the U.S. market pass through Hong Kong. A former labor camp detainee cited a recent report from the Labor Reform Bureau of Hubei Province that claimed Hong Kong dealers exported high quality machine shaping tools to about 40 countries throughout the world. The Judiciary Bureau of Hubei Province operates the Xiang-Yang Machine Tool Factory, which is also a labor reform camp enterprise. Yet, because the exported goods pass through a series of business transactions, it is difficult to trace their origins.

In some cases, though, the brand name of an export may connect the product with its place of origin. One private researcher explained how the brand name of each product identifies where it is grown or made. Under Mao Zedong, each province was supposed to be economically independent and produce its own brand-name goods. Goods were not circulated among the provinces. While different provinces may have produced the same kinds of goods, the products carried brand names that were unique to the province. In this sense, each product had its own unique and easily identifiable brand name. A researcher (and former prisoner) told us that a labor reform detention center in the Guangdong Province grows black tea that is marketed under the unique name of that detention center. He said he had bought tea in the United States that was grown at this labor farm and was identified by its unique name. We verified the name of this detention center with a second source. A State Department report on Guangdong prisons stated that they routinely do manufacturing under subcontract to local factories. For example, in a model prison for juvenile offenders, vocational training consisted of making circuit boards for use in television sets and radio-cassette players.

Not all goods produced in the PRC under forced labor conditions may be produced solely by government enterprises. Forced laborers may produce goods for foreign investors involved in joint ventures. One person told us that, while working as a lawyer in the PRC, she encountered Ministry of Justice officials who promoted forced-labor enterprises as opportunities for U.S. investors. In another instance, the State Department reported that a Hong Kong businessman was offered the labor of female prisoners to serve as factory workers. Recent press accounts state that a Chinese wine, produced jointly with a French company, was made with grapes grown by prison labor. In one account, the French company acknowledged that this had taken place without its knowledge but that the practice had ceased.

Although the State Department included the issue of forced labor in its recent human rights reports on the PRC, it did not have extensive information on the matter. Prompted by our inquiry, and the Labor Department's request for information to respond to the Senate Committee's inquiry, State requested input on forced labor from the U.S. embassy and consulates in the PRC. The responses confirmed that PRC prisons use detainees for agriculture and manufacturing a wide variety of commodities. However, they did not give evidence that specific commodities had been exported, and they contained denials from PRC officials that such products had been exported to the United States. State and Labor Department officials believe, however, that some goods manufactured in PRC labor reform and reeducation facilities have been exported. They also believe that the extent of the exports is small and that it would be difficult to determine which exports reach the United States. Neither agency is aware of specific cases in which goods produced by forced labor in the PRC have entered the United States.

Major Contributors to This Report

National Security
and International
Affairs Division,
Washington, D.C.

Jess T. Ford, Assistant Director
John A. Butcher, Evaluator-in-Charge
Beth A. Hoffman, Evaluator
Marie-Denise Sansaricq, Evaluator